

## The Ontario Human Rights Commissioners

The Ontario Human Rights Commissioners, as distinct from the Officers of the Commission, are members of the public appointed by the Lieutenant Governor of Ontario. They are responsible to the Minister of Labour for the administration of the Code. For this reason, cases which are settled must be approved by the Commissioners before being closed. A settlement signed by the parties and approved by the Commissioners is binding on the parties.

Cases which cannot be settled are referred to the Commissioners. After evaluating the evidence, they decide whether to ask the Minister of Labour to appoint a Board of Inquiry.

If the Commissioners decide that a Board of Inquiry is not appropriate in the circumstances, they will advise the complainant in writing of the reasons for the decision and of the procedure to request a reconsideration of the decision.

## Reconsideration

When the Commission refuses to proceed with a complaint or decides not to request the appointment of a Board of Inquiry, the person making the complaint may ask for a reconsideration of its decision.

An application for reconsideration must be made within 15 days of the date the Commission decision is mailed, and must include a statement of the facts upon which the application is based. In exceptional circumstances, the Commission will consider a later application if there are good reasons to do so.

The Commission makes its decision after notifying the respondent and giving the respondent time to make written submissions.

A decision of the Commission on reconsideration is final and is communicated to the complainant and respondent in writing.

## Board of Inquiry

A Board of Inquiry is a decision-making body which operates like a court. The person who presides over the Board is appointed by the Minister of Labour. He or she is not a member or employee of the Ontario Human Rights Commission. The Board hears testimony given under oath and makes a finding, based on the evidence, as to whether or not the Code has been contravened. If the Board finds that there has been no contravention, the case is dismissed. When a case has been dismissed, the Board may order the Commission to pay the respondent's costs in certain circumstances. If the Board finds that there has been a contravention of the Code, a Board order may be issued to ensure compliance with the Code, both for the complainant's case and for future practices. The Board can also order compensation for loss to the complainant, and where the contravention has been engaged in wilfully or recklessly, may award up to \$10,000 to the complainant for mental anguish.

The decision of the Board must be given within 30 days of the conclusion of the hearing.

The decision or order of the Board may be appealed to the Divisional Court of the Supreme Court of Ontario.

## Prosecution

A person who infringes the right of another under the Code, obstructs an investigation or contravenes a Board of Inquiry order may be prosecuted with the consent of the Attorney General. On conviction, such a person may be fined up to \$25,000.

*The Human Rights Code, 1981, provides that every person has a right to freedom from discrimination in the following areas:*

- |                                  |                                                          |
|----------------------------------|----------------------------------------------------------|
| • services, goods and facilities | • employment                                             |
| • the occupancy of accommodation | • membership in vocational associations and trade unions |
| • contracts                      |                                                          |

### on the grounds of:

- |                   |                                    |
|-------------------|------------------------------------|
| • race            | • sex                              |
| • ancestry        | • handicap                         |
| • place of origin | • age                              |
| • colour          | • marital status                   |
| • ethnic origin   | • family status                    |
| • citizenship     | • the receipt of public assistance |
| • creed           | • record of offences               |

## ONTARIO HUMAN RIGHTS COMMISSION THE HONOURABLE RUSSELL H. RAMSAY

*Minister of Labour*

BORDEN C. PURCELL

*Chairman*

W. GUNTHER PLAUT

*Vice-Chairman*

BHAUSAHEB UBALÉ

*Race Relations Commissioner*

PETER CICCCHI, ALBIN JOUSSE, MARIE MARCHAND,

HARRY PARROTT, LEONIDAS POLYMENAKOS,

GENE RHEAUME, BEV. SALMON

*Commissioners*

GEORGE A. BROWN

*Executive Director*

For further information, please refer to a copy of the *Human Rights Code, 1981*, or contact the nearest office of the Ontario Human Rights Commission.

Address all correspondence to:

*Ontario Human Rights Commission*

*400 University Avenue, Toronto M7A 1T7 or:*

119 King St. W., Hamilton L8N 3Z9

808 Robertson St., Kenora P9N 1X9

105 Princess St., Kingston K7L 1H3

824 King St., Kitchener N2G 1G1

205 Oxford St. E., London N6A 5G6

2 Robert Speck Parkway, Mississauga L4Z 1H8

2197 Riverside Drive, Ottawa K1H 7X3

390 Bay St., Sault Ste. Marie P6A 1X2

2500 Lawrence Avenue East, Scarborough M1P 2R7

205 King St., St. Catharines L2R 3J5

199 Larch St., Sudbury

435 James St. S., Thunder Bay P7E 6E3

273 Third Avenue, Timmins P4N 1E2

500 Ouellette Ave., Windsor N9A 1B3

 **Ontario**  
Human Rights Commission

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# Complaint Procedure

## The Right to Complain

When a person believes that he or she has been discriminated against or harassed in a way that is prohibited by the Ontario Human Rights Code, he or she may complain to the Ontario Human Rights Commission. The Code forbids reprisals or other actions against anyone who complains to the Commission (the complainant), or who assists with a complaint. For example, if an employer threatens to fire an employee for giving evidence about discrimination, the employer is breaking the law. A complaint may be filed by contacting the nearest office of the Ontario Human Rights Commission. The Commission may also initiate a complaint by itself, or at the request of any person.

## The Complaint

A Human Rights Officer will discuss the problem and will take the complaint in writing if he or she believes the Commission has jurisdiction in the area involved. The Commission may refuse to deal with a complaint if:

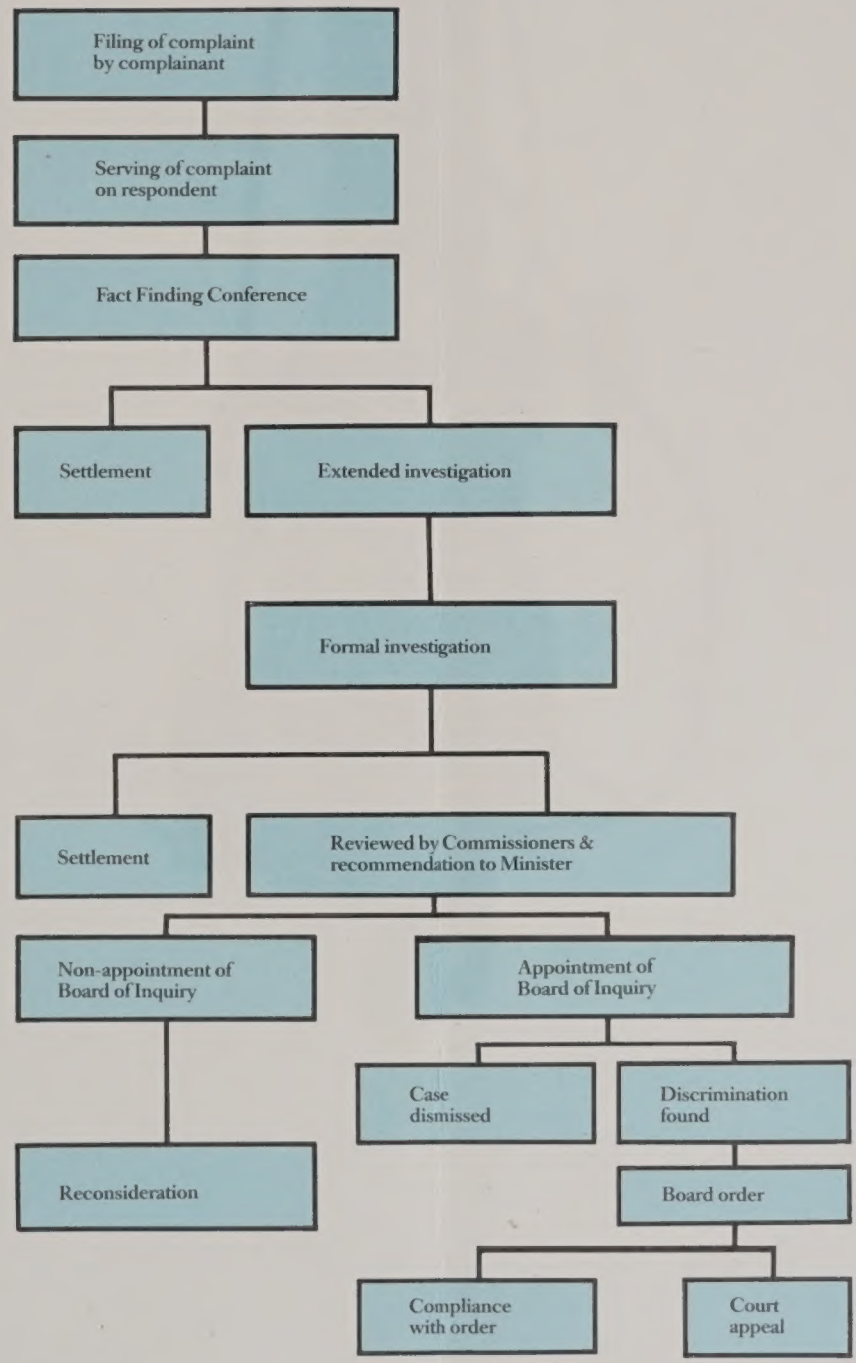
- the complaint is not within its jurisdiction;
- the subject matter of the complaint is trivial, frivolous, vexatious or made in bad faith;
- the facts upon which the complaint is based occurred more than six months before the complaint was filed; or
- there is a more appropriate procedure for dealing with it under another law of Ontario.

If the Commission decides to dismiss a complaint, it will notify the complainant in writing, and advise of the procedure for having the decision reconsidered.

## Procedure for Processing Complaints

Each complaint is registered and assigned to a Human Rights Officer. A copy of the complaint is delivered to the person against whom the complaint is made (the respondent).

In order to assist in the rapid determination of the issues, both the complainant and the respondent will be asked to complete a questionnaire. It is in the interest of both parties to complete these documents as thoroughly and accurately as possible.



## Fact Finding Conference

A Fact Finding Conference is normally held shortly after the filing of a complaint. The Human Rights Officer conducts the conference. The complainant and the respondent are both present so that they may provide their views about the complaint. The purpose of the Fact Finding Conference is:

- to determine the positions of the complainant and the respondent with respect to the complaint; and
- to obtain detailed evidence from both parties about the facts which gave rise to the complaint.

An opportunity is usually provided immediately following the Fact Finding Conference for settlement of the complaint when the complainant, respondent and Commission representative feel it is appropriate.

## Extended Investigation

Complaints which cannot be resolved in the Fact Finding Conference usually require an extended investigation.

In carrying out the investigation, the Officer may:

- enter premises (if the premises are a person's home, the Officer must have the consent of the occupier);
- request the production of documents; and
- speak to witnesses who may have relevant information; (when questioning witnesses, the Officer may exclude any person who may be adverse in interest to the complainant, but not the witness's lawyer or other representative).

If the Officer is refused entry or documents, the Commission may seek a warrant to enter the premises or to search for documents, or may request the Minister of Labour to appoint a Board of Inquiry. Obstruction of a Commission investigation is unlawful.

## Formal Conciliation

After the investigation is completed, the Officer meets with the complainant and the respondent. The Facts are reviewed in an attempt to arrive at a reasonable settlement of the complaint that is satisfactory to the parties involved.

Whether or not a settlement is reached, the Officer is not empowered to close the file on a complaint. The Commissioners have this responsibility.